

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 00-6023 CIV HURLEY


R/S ASSOCIATES, a Florida
Limited Partnership and
DAN SHOOSTER

Plaintiff

vs.

ROBERT YARI and FORUM
ARLINGTON PROPERTIES, LTD. AND
ALLIANCE COMMERCIAL MANAGEMENT,

Defendants

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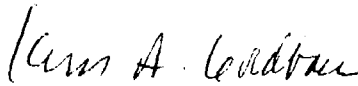
PLAINTIFFS' CONSENT TO
MAGISTRATE JURISDICTION

COME NOW the Plaintiffs, R/S Associates, a Florida Limited Partnership and Dan Shooster (hereinafter "Plaintiffs"), by and through their undersigned counsel, and pursuant to the Court's Order Setting Trial Date & Discovery Deadlines, Referring Case to Mediation & Referring Discovery to United States Magistrate Judge dated August 7, 2000 would state as follows:

1. Counsel for Plaintiffs has met with their clients and have discussed Magistrate Jurisdiction.
2. Plaintiffs agree to Magistrate Jurisdiction in the above cause.

I HEREBY CERTIFY a copy of the foregoing has been forwarded via facsimile and first class mail to Elaine Johnson James, Esquire, Nason, Yeager, Gerson, White & Lioce, P.A., 1645 Palm Beach Lakes Boulevard, Suite 1200, West Palm Beach, FL 33401 this 25 day of August, 2000.

FRIEDMAN, ROSENWASSER & GOLDBAUM, P.A.
Attorneys for Plaintiffs
5355 Town Center Road #801
Boca Raton, Florida 33486
Tel: (561) 395-5511
Fax: (561) 368-9274

by: 

KEITH A. GOLDBAUM, ESQUIRE
FBN 0475637

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
NORTHERN DIVISION

CASE NO. 00-8285-CIV-RYSKAMP

AMERICAN TECHNOLOGY OF SOUTH :
FLORIDA CORPORATION d/b/a :
AMERICAN TECHNOLOGY CORP. :
n/k/a X-MED MEDICAL :
INFORMATION SYSTEM, INC., a :
Florida corporation, and :
ALEXANDER G. CHIGOS, :
individually, :

Plaintiffs, :

vs. :

PRIMED TECHNOLOGIES, L.C., :
a Florida corporation, ALVIN :
BROVENICK, individually, EVAN :
BROVENICK, individually, DAVID :
BLECHMAN, individually, PRIMUS :
PHYSICIAN SERVICES INC., a :
Delaware corporation, JAMES R. :
JUDE, M.D., individually, :
RUBEN E. GARCIA, individually, :
and JOHN A. AUDETTE, :
individually, :

Defendants. :

PLAINTIFFS' MOTION TO DISMISS COUNT IV
OF PRIMED'S AMENDED COUNTERCLAIM

Pursuant to Federal Rule of Civil Procedure 12(b)(6),
plaintiffs/counterdefendants, American Technology of South
Florida Corporation, d/b/a American Technology Corp., n/k/a X-

Med Medical Information System, Inc., a Florida corporation, ("American Technology") and Alexander G. Chigos, individually, ("Chigos") (collectively, "plaintiffs"), by and through the undersigned attorneys, move to dismiss Count IV of defendant/counterplaintiff Primed Technologies, L.C.'s ("Primed") Amended Counterclaim, and in support thereof state as follows:

1. On May 4, 2000, Primed served a counterclaim alleging, *inter alia*, Constructive Fraud (Count IV).

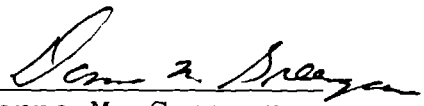
2. On July 27, 2000, this Court entered an Order dismissing Count IV for failure to state a claim upon which relief can be granted.

3. On August 4, 2000, Primed served an amended counterclaim, again alleging Constructive Fraud (Count IV).

4. Primed's claim for Constructive Fraud once again fails to state a claim upon which relief can be granted. Primed has failed to allege any dependency by Primed, failed to allege that Primed was the "weaker party," and failed to allege that plaintiffs voluntarily assumed a duty to advise, counsel, and protect Primed.

5. Furthermore, Primed has not shown any irreparable injury or the lack of an adequate remedy at law.

WHEREFORE, plaintiffs respectfully request that this Court enter an order dismissing Count IV of Primed's Amended Counterclaim, with prejudice.

By: 
Donna M. Greenspan
EDWARDS & ANGELL, LLP
Florida Bar No. 059110
250 Royal Palm Way, #300
Palm Beach, Fl. 33480
Phone: (561) 833-7700
Fax: (561) 655-8719

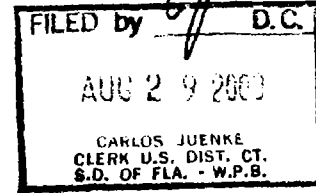
UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

CIVIL ACTION IN ADMIRALTY

CASE NO.: 99-8643-CIV-HURLEY

IN THE MATTER OF:

COMPLAINT OF JOSEPH STERN
AS OWNER OF THE VESSEL
"SEAWIND II" FOR EXONERATION
FROM AND/OR LIMITATION OF
LIABILITY



ORDER

THIS CAUSE having come before the Court upon JOSEPH STERN'S Motion for Leave to Amend Affirmative Defenses and the Court having reviewed the court file and any responses to the motion and otherwise being fully advised in the premises it is

ORDERED AND ADJUDGED that:

1. Joseph Stern's Motion for Leave to Amend Affirmative Defenses is granted.
2. Joseph Stern's affirmative defenses are amended in conformance with paragraph 2 of the Motion for Leave to Amend Affirmative Defenses.

DONE AND ORDERED in Chambers at West Palm Beach, Palm Beach County, Florida this 28th day of August, 2000.


DISTRICT COURT/JUDGE

cc: Michael J. Schwartz, Esquire
999 Brickell Avenue, #1000
Miami, FL 33131

John A. Lurvey, Esquire
1801 Centrepark Drive East, #200
West Palm Beach, FL 33401

Edward P. Schroeder, Esquire
3279 Veteran Memorial Hwy., #D-2
Ronkonkoma, NY 11779

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